

**Meeting Minutes for Fast Track Workgroup
March 25, 2003, 9:30 AM to 12:30 PM
IGCN, in the OAQ Training Room**

Attendance:

Neil Parke (Eli Lilly) and Bowden Quinn (WPCB member).
Art Umble (Elkhart WWTP) via conference call.
IDEM representatives: Mary Ellen Gray, John Nixon, Martha Clark, John Elliott, David Kallander, Lonnie Brumfield, Larry Wu, and MaryAnn Stevens

Purpose of Workgroup

The purpose of this workgroup is to review the list of expedited rulemaking issues that the Triennial stakeholder workgroup identified and come to closure on the process for an expedited rulemaking. This list was identified by the Triennial stakeholder group to include changes based on best science, updates of existing rule language, and technical corrections and clarifications that have a reasonable potential of minimal controversy.

Workgroup Discussion

The initial meeting discussion centered on whether to go directly to publication of first notice of comment period in the Indiana Register for this fast track rulemaking. Bowden Quinn stated that a first notice would provide a filter of those issues that are not really fast track worthy. The comments received to the first notice would discriminate between the issues ready to move forward with minimal controversy and those where more discussion will prevent moving forward quickly. Bowden also mentioned that the Triennial Steering Committee meeting on March 19, 2003 discussed the fact that the Fast Track rulemaking is the one moving at the slowest pace. John Nixon explained that the slowest, or most time consuming, part of this rulemaking is determining what issues to include in the rulemaking, prior to actually working on rule language. Neil Parke discussed the Great Lakes Initiative (GLI) rulemaking of eight years ago when the state didn't deal with some water quality issues saying it would do future rulemaking on those issues. Neil thinks those issues, which are mostly corrections of rule errors, should proceed directly to second notice and other issues should be included in the first notice of a new rulemaking. As an example, Neil offered the issue of dissolved solids in nonGLI rules. He believes the dissolved solids criteria are not the problem but rather it is the point of application that needs correction in the rule. In conclusion of this meeting topic, the workgroup generally agreed to a goal date of June 1, 2003 for publishing in the Indiana Register a new first notice of rulemaking. Additionally, the workgroup asked to have a draft of a rule timeline including rule milestones and dates of future workgroup meetings provided by the time of the next workgroup meeting.

Many of the citations discussed at this workgroup meeting have been part of a Memorandum of Agreement (MOA) between EPA and IDEM. The MOA was signed July 28, 2000 and was developed to clarify some GLI rule provisions. The MOA established an agreement that IDEM would interpret rules in a manner agreeable to EPA. The current question is whether rulemaking should be conducted to correct the rules to be consistent with the MOA. Bowden's opinion is that the state's rules need to be consistent with the MOA. Art Umble asked whether EPA has indicated an expectation of the rules being changed to reflect the MOA.

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List review

Continuing the review of issues listed in the December 6, 2002 paper on fast track rulemaking for triennial, this workgroup meeting discussed the 327 IAC 5-2-11.5 and 327 IAC 5-2-11.6 citations.

Citations/issues ready to move forward in rulemaking:

327 IAC 5-2-11.1(d) and (e)
327 IAC 5-2-11.4(b)(2)(A)(ii)(BB)
327 IAC 5-2-11.4(b)(3)(A)(i)(AA)
327 IAC 5-2-11.4(b)(3)(B)(ii)
327 IAC 5-2-11.4(b)(4)(A)(iii)
327 IAC 5-2-11.4(c) concerning technical corrections to the dissolved metal translator provisions, the 0.3 TU_a only applies if the discharger has an approved alternate mixing zone for acute whole effluent toxicity, and specifying what the WLA will be if the receiving waterbody is impaired.
327 IAC 5-2-11.5(b)(1)(B)(i)
327 IAC 5-2-11.5(b)(1)(B)(ii)
327 IAC 5-2-11.5(g)
327 IAC 5-2-11.6(c)(2)
327 IAC 5-2-11.6(c)(3)
327 IAC 5-2-11.6(c)(4) regarding removing references to 327 IAC 5-2-11.6(c)(2)
327 IAC 5-2-11.6(c)(5) regarding removing the requirement that the discharger has to demonstrate that an alternate value for n is more appropriate and allow IDEM to use a value for n based on the monitoring frequency in the draft permit.
327 IAC 5-2-11.6(c)(5) regarding specifying that the monthly average WQBELs may not exceed the WLA unless calculated using a facility-specific CV and a value for n based on permit conditions.
327 IAC 5-2-11.6(g)(4)
327 IAC 5-2-11.6(h)(7)(A)(iii)

Citations/ issues needing more discussion before proceeding in rulemaking:

Article 5, Implementation Procedures: Updates to the Basic NPDES Requirements
327 IAC 5-2-11.1(g)(2)
327 IAC 5-2-11.1(i)
327 IAC 5-2-11.4(a)(8)(C)(ii)
327 IAC 5-2-11.4(b)(2)(A)(i)(AA)
327 IAC 5-2-11.4(b)(3)(B)(i)
327 IAC 5-2-11.4(b)(4)(C)
327 IAC 5-2-11.4(c) concerning deleting the FAV requirement from the wasteload allocation equations.
327 IAC 5-2-11.5(b)(2)(A)
327 IAC 5-2-11.6(c)(4) regarding clarifying how WQBELs for WET will be calculated.
Lake and sinkhole discharger rule
Small sanitary discharger rule

Follow up issues

A draft first notice and a rulemaking timeline will be made available to the workgroup prior to the April 17th workgroup meeting.

Future Meeting Dates

April 17, 2003, at 2:00 to 4:00 P. M., location TBA.

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May 20, 2003, at 2:00 to 4:00 P. M., location TBA.

Next Meeting issues

- Review potential fast track rulemaking issues listed on pages 8 and 9 of the December 6, 2002 list of Triennial Rulemaking Expedited Issues.
- Review draft of a new first notice of comment period to be published in the Indiana Register.